

Shyanna Albert, date of birth January 7, 2000, their daughter, is a resident of Bexar County, Texas.

3. Defendant, United States Department of the Army will be served in accordance with Rule 4(i), FED. R. CIV. P., by sending a copy of the Summons and of the Complaint by certified mail, return receipt requested, to:

- (1) The civil process clerk at the United States Attorney's office for the Western District of Texas;
- (2) The Attorney General of the United States at Washington, D.C.
- (3) Brian C. Greco, Captain, U. S. Army, Claims Judge Advocate.

4. Defendant, Wounded Warrior Project, Inc. is a non-profit corporation, and may be served with process by serving its registered agent for service, Corporation Service Company d/b/a CSC – Lawyers Incorporating Service Company, 211 E. 7th Street, Suite 620, Austin, Travis County, Texas 78701-3218. Service on said Defendant will be effected in accordance with Rule 4, FED. R. CIV. P.

FACTS

5. On or about November 9, 2013, Plaintiff, Frankie Albert, a disabled veteran, and his daughter, Shyanna Albert, then 13 years old, were riding in a U. S. Army 2-1/2 ton light medium tactical vehicle in a Veteran's Day Parade in San Antonio, Bexar County, Texas sponsored by the Wounded Warrior Project, Inc. Plaintiff Shyanna Albert was knocked unconscious when a steel bar or tube on the truck she was riding in suddenly fell on her head. The force of the impact caused Plaintiff to sustain severe and permanent head injuries and severe and permanent aggravation of a prior head injury.

6. Unknown employees of the Army and unknown employees of Wounded Warrior Project, Inc. were negligent in inviting Plaintiffs to ride in the parade, along with a number of other veterans and their families, in an Army truck which had an unsecured heavy bar above the heads of the passengers.

7. Plaintiff Shyanna Albert's injuries and damages, as described herein, are a direct and proximate result of Defendants' employees and/or agents' negligent actions. At all times relevant to this matter, Defendants acted by and through their employees and/or agents. Such employees and/or agents were within the course and scope of their employment with Defendants and were within the course and scope of their agency relationship with Defendants.

PLAINTIFFS' CLAIMS OF NEGLIGENCE AGAINST DEFENDANTS

8. Defendants, acting by and through their employees and/or agents, had a duty to exercise the degree of care that a reasonably careful person would use to avoid harm to guests under circumstances similar to those described herein.

9. Defendants by the exercise of reasonable care should have discovered that the bar was not secure and realized that it involved an unreasonable risk of harm to such guests; and should have expected that guests would not discover or realize the danger; and Defendants failed to exercise reasonable care to protect guests like Plaintiff Shyanna Albert against the danger.

Plaintiff Shyanna Albert did not have actual knowledge of the danger and did not fully appreciate its nature and extent.

10. Plaintiff Shyanna Albert's injuries were proximately caused by Defendants' negligent, careless and reckless disregard of said duty.

11. Defendants' negligent, careless and reckless disregard of said duty consisted of, but is not limited to, the following acts and omissions:

Failing to take reasonable measures to secure or remove the bar on the truck.

12. Plaintiffs invoke the doctrine of *res ipsa loquitur*, in that the bar would not have fallen onto Shyanna's head in the absence of negligence.

13. Plaintiffs originally asserted the FTCA claim for \$40,000 in damages in 2014. However, the brain injuries to Shyanna, age 17 at time of suit, have been determined to be much more severe than originally known. Plaintiffs seek damages to the full extent allowed by Texas law.

DAMAGES

14. As a direct and proximate result of the occurrence made the basis of this lawsuit, Plaintiff Shyanna Albert was caused to suffer physical injuries, and the severe aggravation of a prior condition, and to incur the following damages:

- A. Reasonable medical care and expenses in the past. These expenses were incurred by Plaintiff Shyanna Albert for the necessary care and treatment of the injuries resulting from the incident complained of herein, such charges are reasonable and were usual and customary charges for such services in Bexar County, Texas;
- B. Reasonable and necessary medical care and expenses which will in all reasonable probability be incurred in the future;
- C. Physical pain and suffering in the past and future;
- D. Physical impairment in the past and future;
- E. Mental anguish in the past and future; and
- F. Lost earning capacity in the future.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiffs respectfully pray that the Defendants be cited to appear and answer herein, and that upon a final hearing of the cause, judgment be entered for the Plaintiffs against Defendants, jointly and severally, for damages as set forth above, for prejudgment and postjudgment interest as allowed by law, and for costs of court; and for such other and further relief to which Plaintiffs may be entitled at law or in equity.

SIGNED on the 27th day of July, 2017.

Respectfully submitted,

RILEY & RILEY
ATTORNEYS AT LAW

By: _____


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